

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

TAMALPAIS UNION HIGH SCHOOL
DISTRICT.

OAH Case No. 2015040156

ORDER PARTIALLY GRANTING
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND HEARING
DATES

On June 19, 2015, Tamalpais Union High School District filed a request to continue the prehearing conference and hearing dates in this matter. Tamalpais requests a continuance to September 2015, citing the unavailability of its attorney, who will be out of the state from July 8 through July 11, 2015 and who has a “very impacted” hearing calendar in July and August 2015. Tamalpais also cites the unavailability of several witnesses due to out of town trips and vacations from July 2 through July 16, 2015. Student filed an opposition to the request for continuance on June 24, 2015 because Parents are seeking reimbursement for an out of state placement which is costly and a financial burden.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party’s excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) The Office of Administrative Hearings considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Partially Granted. All dates are vacated and the hearing and prehearing conference are scheduled as listed below. Tamalpais has shown good cause for a short continuance in the case due to the unavailability of its attorney, but has not shown cause for a continuance until September 2015. Vague assertions of an impacted hearing calendar do not constitute good cause for a continuance.

Prehearing Conference: July 17, 2015 at 10:00 a.m.

Due Process Hearing: July 28, 2015, at 9:30 a.m., July 29, and 30, 2015 at 9:00 a.m. and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: June 25, 2015

/s/

MARGARET BROUSSARD
Presiding Administrative Law Judge
Office of Administrative Hearings